

## **SUBCHAPTER II. LAND AND LOAN ASSOCIATIONS.**

### **Article 8.**

#### **Organization and Powers.**

##### **§ 54-45. Application of term.**

The term "land and loan associations" shall apply to and include all corporations, companies, societies or associations organized for the purpose of making loans to their members only, and of enabling their members to acquire real estate, make improvements thereon, and remove encumbrances therefrom by the payment of money in periodical installments or principal sums, and for the accumulation of a fund to be returned to members who do not obtain advances for such purposes, where the principles of building and loan associations and their work are adapted to the use of the farmers and the rural population.

It shall be unlawful for any corporation, company, society, or association doing business in this State not so conducted to use in its corporate name the term "land and loan association," or in any manner or device to hold itself out to the public as a land and loan association. (1915, c. 172, s. 1; C.S., s. 5204.)

##### **§ 54-46. Incorporation and powers.**

Land and loan associations shall be incorporated, supervised, and be subject to such regulations and have such privileges as are prescribed for building and loan associations under the laws of this State as they now are or may be hereafter enacted, except as prescribed in this Article. (1915, c. 172, s. 2; C.S., s. 5205.)

##### **§ 54-47. Loans.**

The board of directors of land and loan associations may contract for loans to the amount of seventy-five percent (75%) of the securities used by them as collateral, where the loans are on long time (three or more years), and for at least one percent (1%) less than is charged by such associations on their loans to shareholders; and they may make short loans to their shareholders on their shares and personal endorsement or personal property. (1915, c. 172, s. 3; C.S., s. 5206.)

##### **§ 54-48. Reserve associations.**

Associations to be known as "reserve land and loan associations" may be chartered and licensed as provided in this Article, when they are organized and the stock therein is held by local land and loan associations, and shall have such powers, rights, and privileges as are accorded to other domestic associations, and they may conform to such laws, rules, and regulations as may be prescribed by the laws of the United States, or of this State, to enable them to receive moneys, bonds, or securities to be used in loans and to secure the same. Such reserve associations shall be under the supervision of the Commissioner of Banks as are building and loan associations. (1915, c. 172, s. 4; C.S., s. 5207; 1971, c. 864, s. 17; 1989, c. 76, s. 14; 2001-193, s. 16.)

##### **§ 54-49. Land Conservation and Development Bureau; land mortgage associations.**

Recognizing that agriculture is the most fundamental wealth-producing occupation of the State and that land is the basis of agriculture, the General Assembly of North Carolina does hereby authorize and direct the State Department of Agriculture and Consumer Services to establish as a

major division of its organization a Land Conservation and Land Development Bureau. The function of this Bureau shall be to promote conservation, rural home ownership, and the development of the land resources of the State through land mortgage associations under the following provisions. (1925, c. 223, s. 1; 1997-261, s. 109.)

**§ 54-50. Number of incorporators; capital stock.**

Any number of persons, resident freeholders of the State, not less than 15, may associate to establish an association on the terms and conditions and subject to the liabilities hereinafter prescribed. The aggregate amount of the capital stock of any such association shall not be less than twenty thousand dollars (\$20,000). Such association shall mean a corporation organized under the laws of the State for the purpose of making loans upon agricultural lands, forest lands and dwelling houses within this State and known as a land mortgage association. (1925, c. 223, s. 2.)

**§ 54-51. Incorporation.**

The articles of incorporation shall be in writing, signed and acknowledged by the incorporators and shall contain the following:

- (1) The declaration that they are associating for the purpose of forming a land mortgage association under the provisions of this Article.
- (2) The name of such association, which shall be in no material respect similar to any other association in the same county.
- (3) The name of the village, town or city, and the county where such association is to be located.
- (4) The amount of capital stock, which shall be divided into shares of one hundred dollars (\$100.00) each.
- (5) The period for which such association is organized. (1925, c. 223, s. 3.)

**§ 54-52. Organization.**

The incorporators at their first annual meeting shall elect by ballot from their number a board of trustees of not less than six members who shall adopt a code of bylaws and a plan of organization approved by the Commissioner of Agriculture and the Commissioner of Banks. (1925, c. 223, s. 4; 1931, c. 243, s. 5.)

**§ 54-53. Corporate powers.**

Said land mortgage association shall have power:

- (1) To make loans, the conditions of which shall be approved by the Commissioner of Banks if the security taken therefor is to be used as the basis for a bond issue under subdivision (3) hereof, and to accept as security for any such loan a first mortgage upon improved or partially improved agricultural lands within this State. Such loan shall not exceed, however, sixty-five percent (65%) of the value of such real estate so conveyed, according to the appraisal made as herein provided.
- (2) To purchase first mortgages, heretofore or hereafter issued against North Carolina agricultural lands, either improved or partially improved, from persons or firms resident of this State or corporations organized under the laws of this

State engaged in the colonization or settlement of North Carolina lands and to whom such mortgages were issued, if, after investigation, the plan of settlement or colonization followed by such person, firm or corporation is approved by the Commissioner of Agriculture as beneficial to the settler or colonist, and if the lands against which such mortgages are issued are found by the said Commissioner to be in fact agricultural lands suitable for agricultural purposes and the terms and conditions of the loans made by such person, firm or corporation are just and reasonable, or from banks or trust companies organized under the laws of this State, or of the United States, to do business in this State, to which such mortgages were issued direct by the borrowers. Each such mortgage shall be payable on the amortization plan maturing in not less than 20 years. The request for an investigation leading to such a purchase of mortgages from persons, firms or corporations engaged in the settlement or colonization of North Carolina lands shall be accompanied by a deposit, the amount of such deposit to be determined by the Commissioner of Agriculture. Upon completion of the investigation the Commissioner of Agriculture shall render a statement of expense accompanied by a remittance of any unused balance of such deposit, but no mortgage shall be purchased until the lands against which the same is issued have been appraised as hereinafter provided for the appraisal of land for a loan by the land mortgage association and such mortgage is approved by all members of the loan committee.

- (3) To issue bonds secured by the pledge of the mortgage so taken or purchased.
- (4) To pledge the note and mortgages so taken or purchased under the provisions of subdivisions (1) and (2) hereof as security for the bonds of the land mortgage association referred to in subdivision (3) hereof. (1925, c. 223, s. 5; 1931, c. 243, s. 5.)

#### **§ 54-54. Restrictions.**

All mortgage obligations acquired by the company shall be subject to the following restrictions:

- (1) Each such mortgage shall be a first and valid lien upon improved or partially improved agricultural lands within the State of North Carolina;
- (2) Each such mortgage shall be a first and valid lien upon the whole and undivided fee and upon no lesser estate;
- (3) Each such mortgage shall be given to secure a principal indebtedness not exceeding in amount fifteen percent (15%) of the capital and surplus of the company;
- (4) All such mortgages shall contain provisions for soil conservation;
- (5) All such mortgages shall contain provisions for the time of commencing payments for annual or semiannual reduction of the indebtedness secured thereby, subject to the requirements as to repayment of loans and interest hereinafter provided;
- (6) The company shall make no loan secured by mortgage of any real estate in which any officer or trustee of the company is interested either directly or indirectly, except upon the approval of two thirds of all the trustees;

- (7) A sufficient amount of the proceeds of any loan made upon lands upon which are buildings in course of construction or upon which land clearing or other improvements are being made shall be retained by the association and paid out only upon construction or improvement vouchers, countersigned by a duly authorized agent of the association. (1925, c. 223, s. 6.)

**§ 54-55. Mortgage forms; approval.**

The mortgages to be given to the association, the bonds to be issued and the trust deed executed to secure the bonds shall be in such form and shall contain such conditions as will adequately protect all parties thereto. The trustees shall provide the forms subject to the joint approval of the Commissioner of Banks and the Attorney General. (1925, c. 223, s. 7; 1931, c. 243, s. 5.)

**§ 54-56. Repayment of loan and interest.**

The prospective borrower may be required to pay all expenses incidental to the examination of title and appraisal of the property. The total amount shall include (i) the rate of interest agreed upon; and (ii) a payment. (1925, c. 223, s. 8.)

**§ 54-57. Terms of payment.**

A borrower may repay his loan by installments of such frequency and amounts as may be agreed upon: Provided, that not less than one percent (1%) of the original amount of the mortgage shall be paid upon the principal thereof annually, and commencing not later than the sixth year succeeding the year in which the loan was made the borrower may pay a larger installment upon the principal, or the whole of it, at any interest date, such payments to be in amounts equal to additions of one or more principal amortization payments. Such payment may be made in cash, or by tendering at par bonds of the association. For failure to pay the interest or any installment required by the terms of the loan, the borrower may be fined as the bylaws may prescribe. But the borrower shall never be required to pay more than the specified installment, nor to pay the principal before it is due except as prescribed herein for partial repayment on account of depreciation and for foreclosure by the association. The borrower may on 60 days' notice repay the association his total indebtedness, or, without such notice, upon payment of 60 days' interest upon the principal unpaid. The borrower shall be entitled to a receipt for all installments as paid, and where the repayment is complete to a satisfaction of his note and mortgage. (1925, c. 223, s. 9.)

**§ 54-58. Transfer of mortgaged lands.**

The acquirer of any lands mortgaged to a land mortgage association shall enter at once, on the acquisition of the land, into a written agreement with the association, attested by a notary, or a justice, and assume the personal responsibility for the indebtedness to the association attaching to such lands. This document must be presented to the trustees within 14 days after demand. (1925, c. 223, s. 10.)

**§ 54-59. Calling in loans before due.**

Every land mortgage association shall have the power to call in loans upon 60 days' notice:

- (1) When the person acquiring the lands upon which money has been loaned does not comply with the provisions of G.S. 54-58 and fulfill the obligations incumbent upon him;
- (2) When the debtor does not meet the obligation imposed upon him by his contract and the bylaws of the land mortgage association;
- (3) When the mortgaged premises become subject to forced sale;
- (4) When the mortgaged premises are depreciating in value because of lack of care, of failure to maintain and conserve or from other cause.

The trustees of the association, whenever necessary, shall provide for an inspection of the mortgaged premises by the State Department of Agriculture and Consumer Services for an investigation of the care which is being given said premises, and may employ an expert to inspect the soil with a view of determining whether or not the same is being depleted. (1925, c. 223, s. 11; 1997-261, s. 109.)

#### **§ 54-60. Partial recall of debt.**

The association may require a suitable partial repayment of the debt if the mortgaged premises may have at any time become depreciated in value from any cause whatsoever. (1925, c. 223, s. 12.)

#### **§ 54-61. Foreclosure.**

Whenever any loan is called in and the borrower shall fail to pay the principal and interest due to the association as required by law and the notices given him, the land mortgage association may then foreclose upon the mortgaged premises as for a past-due loan. But in no case shall a borrower be liable for a sum greater than the amount of the unpaid portion of the loan with any accretions of interest thereon and expenses incidental to the collection thereof. (1925, c. 223, s. 13.)

#### **§ 54-62. Appraisal of lands.**

Upon application for a loan the land mortgage association shall cause the lands which it is proposed to mortgage to the association to be appraised by a competent appraiser furnished it by the State Department of Agriculture and Consumer Services. (1925, c. 223, s. 14; 1997-261, s. 109.)

#### **§ 54-63. Preference prohibited; association borrowing money.**

No land mortgage association, and no officer or agent thereof, shall give any preference to any creditor by pledging any of the assets of such association as collateral security, except that any such association may borrow money for temporary purposes, and may pledge assets of the association as collateral security therefor. Whenever it shall appear that any land mortgage association has borrowed habitually for the purpose of reloaning, the Commissioner of Banks may require such association to pay off such amount so borrowed. (1925, c. 223, s. 15; 1931, c. 243, s. 5.)

#### **§ 54-64. Bond issues.**

(a) The bonds to be issued by any land mortgage association may be issued for such amounts, bearing such serial number, and date or dates, and be payable at such time and times, bear such rate of interest, and be redeemable at maturity or upon notice at such times and in such manner, as the land mortgage association may, subject to the approval of the Banking Commission, deem advisable.

(b) Each land mortgage association shall keep a register for the registration and transfer of bonds issued by it in which it shall register, or cause to be registered, all bonds upon presentation thereof for such purpose; and such register shall contain the post-office address of all registered holders of bonds and shall, at all reasonable times, be open to the inspection of the Banking Commission, or any of its deputies, and to the State Treasurer. (1925, c. 223, s. 16.)

#### **§ 54-65. Deed of trust.**

(a) To secure the payment of such bonds, the land mortgage association shall issue a collateral deed of trust to the State Treasurer, pledging as security for such bonds the notes and mortgages taken or purchased, as provided herein, in an amount equal to or exceeding the aggregate amount of bonds issued or to be issued.

(b) The total amount of bonds actually outstanding shall not at any time exceed the total amount unpaid upon the notes secured by the mortgages belonging to the association and pledged for the payment of the bonds, plus such securities and moneys as may be on deposit with the State Treasurer under the provisions hereof.

(c) The aggregate amount of the principal of all bonds issued by land mortgage associations and outstanding at any one time shall not exceed 20 times the amount of the capital and surplus of the company. (1925, c. 223, s. 17.)

#### **§ 54-66. Collaterals deposited with State Treasurer.**

All mortgages pledged to secure the payment of the bonds issued hereunder shall be deposited and left with the State Treasurer. The land mortgage association may, with the approval of the State Treasurer, remove such mortgages from the custody of the State Treasurer, substituting in place thereof other of its mortgages, or money or State of North Carolina bonds or certificates of deposit, endorsed in blank, issued by State or national banks located in North Carolina, farm mortgage bonds issued under the provisions of the Federal Farm Loan Act approved July 17, 1916, or obligations of the United States government, in an amount equal to or greater than the amount unpaid upon the notes secured by the mortgages withdrawn. (1925, c. 223, s. 18.)

#### **§ 54-67. Redemption of bonds.**

(a) Notice of redemption of bonds may on no account be given on the part of the holder thereof, but may be given by the association only for the purpose of effecting redemption in accordance with the conditions of the bonds and as provided by law and the bylaws.

(b) If the land mortgage association shall elect to redeem any bond prior to maturity, six months' notice of redemption shall be given and shall be effected by personal service upon the owner and holder of the bond, by notice mailed to his address as registered or by advertising the same three times in a newspaper selected by the State Treasurer.

(c) The numbers of the bonds of which notice of redemption is to be given shall be determined by lot, to be drawn by the president or the vice-president at a meeting of the trustees. (1925, c. 223, s. 19; 1993, c. 553, s. 15.)

**§ 54-68. Validity of bonds after maturity.**

In case the holder of any bond outstanding shall not have presented the same for payment within the period of two years after its maturity or within two years after the date fixed for the redemption, as the case may be, then such bonds shall cease to be a lien upon the mortgages, moneys, and securities pledged to the State Treasurer and deposited with him as security therefor, but such bond shall still constitute, until the statute of limitation running against such bonds shall have expired, a single legal money claim or demand against the land mortgage association issuing the same, and be recoverable from it in a suit at law, and in no event shall any interest be collectible upon such bond after the maturity thereof or after the date fixed for its redemption. (1925, c. 223, s. 20.)

**§ 54-69. Bonds as payment.**

If the association gives notice to a debtor for repayment of the mortgage loan the latter must pay to the association in cash or in its bonds at par the face of the same so far as it has not yet been covered by his assets in the amortization and payments. (1925, c. 223, s. 21.)

**§ 54-70. Bonds as investments.**

The bonds of a land mortgage association shall be a legal investment for savings associations, trust companies, or other financial institutions chartered under the laws of this State and shall also be a legal investment for trustees, executors, administrators, or custodians of public or private funds, or corporations, partnerships or associations. (1925, c. 223, s. 22.)

**§ 54-71. Application of earnings; reserve fund.**

The gross earnings of the association shall be ascertained annually, and there shall first be deducted therefrom the expenses incurred by the association for the preceding year and the balance thereof shall be set aside as a reserve fund for the payment of contingent losses, to an amount equal to two percent (2%) of the capital stock outstanding, and until such reserve fund equals twenty percent (20%) of the capital stock of such association. (1925, c. 223, s. 23.)

**§ 54-72. Restriction on holding real estate.**

No land mortgage association shall acquire real estate (other than for the occupation of its offices) except to protect its interest in case any of the mortgages owned by it are foreclosed and the property therein described sold to pay the indebtedness secured thereby. All real estate so acquired shall be promptly sold. (1925, c. 223, s. 24.)

**§ 54-73. Banking laws applicable.**

The banking laws as defined in G.S. 53C-1-4(5), insofar as applicable and not in conflict with the provisions hereof shall apply to land mortgage associations. (1925, c. 223, s. 25; 2012-56, s. 35.)